

OPINION 635

NOTOPHTHALMUS RAFINESQUE, 1820 (AMPHIBIA); ADDITION
TO THE OFFICIAL LIST AS THE NAME TO BE USED FOR THE
EASTERN NORTH-AMERICAN NEWT

RULING.—(1) The generic name *Notophthalmus* Rafinesque, 1820 (gender : masculine), type-species, by monotypy, *Triturus miniatus* Rafinesque, 1820 (a name selected by Baird, 1850, as first reviser, in preference to *Diemictylus* Rafinesque, 1820) is hereby placed on the Official List of Generic Names in Zoology with the Name No. 1482.

(2) The specific name *viridescens* Rafinesque, 1820, as published in the binomen *Triturus viridescens* (a name selected by Cope, 1859, as first reviser, in preference to *Triturus miniatus* Rafinesque, 1820) is hereby placed on the Official List of Specific Names in Zoology with the Name No. 1819.

(3) The following generic names are hereby placed on the Official Index of Rejected and Invalid Generic Names in Zoology with the Name Numbers specified :

- (a) *Diemictylus* Hallowell, 1856 (an unjustified emendation of *Diemictylus* Rafinesque, 1820) (Name No. 1556) ;
- (b) *Diemichylus* Cope, 1859 (an incorrect spelling for *Diemictylus* Rafinesque, 1820) (Name No. 1557) ;
- (c) *Diemictelus* Gunther, 1901 (an incorrect spelling for *Diemictylus* Rafinesque, 1820) (Name No. 1558) ;
- (d) *Notophthalmus* Baird, 1850 (an incorrect spelling for *Notophthalmus* Rafinesque, 1820) (Name No. 1559) ;
- (e) *Notophthalmia* Gray, 1850 (an incorrect spelling for *Notophthalmus* Rafinesque, 1820) (Name No. 1560) ;
- (f) *Notophthalma* Gray, 1858 (an incorrect spelling for *Notophthalmus* Rafinesque, 1820) (Name No. 1561).

HISTORY OF THE CASE (Z.N.(S.) 728)

The present case was submitted in November 1952 by Professor Hobart M. Smith, as a request for the use of the plenary powers to validate *Notophthalmus* Rafinesque which, under the rule of page and line precedence in force at that time, was considered to be an invalid synonym of *Diemictylus* Rafinesque, published on the same page of the same work. This application was supported by Dr. Gerd v. Wahlert of Bremen. The Fourteenth International Congress of Zoology (Copenhagen, 1953), however, revoked the rule in question and restored the "first reviser" principle, so that the use of the plenary powers was no longer necessary to place *Notophthalmus* on the Official List. In 1959 Prof. Smith therefore revised his proposal and, American usage in the intervening period having favoured *Diemictylus*, entirely recast the application in order to present it in as impartial a manner as possible, leaving the Commission

to decide whether *Notophthalmus* should be placed on the Official List, or whether the plenary powers be used to validate *Diemictylus*.

The application was sent to the printer on 7 October 1959 and published on 8 April 1960 in *Bull. zool. Nomencl.* 17 : 205–208. Public Notice of the possible use by the Commission of its plenary powers in the present case was given in the same part of the *Bulletin* as well as to the other prescribed serial publications (*Bull. zool. Nomencl.* 4 : 51–56) and to two herpetological journals. No comment was received.

DECISION OF THE COMMISSION

On 6 March 1961 the Members of the Commission were invited to vote under the Three-Month Rule on Voting Paper (61)2 either for or against the use of the plenary powers to determine the generic name for the eastern North-American newt. A vote for the use of the plenary powers involved the adoption of Alternative A in *Bull. zool. Nomencl.* 17 : 207 ; a vote against the use of the plenary powers involved the adoption of Alternative B in *Bull. zool. Nomencl.* 17 : 208. At the close of the prescribed voting period on 6 June 1961 the state of the voting was as follows :

Votes for the use of the plenary powers (i.e. for validation of *Diemictylus*),—fourteen (14), received in the following order : Riley, Stoll, Hering, Boschma, Dymond, Mayr*, Alvarado, Miller, Bonnet, Tortonese, Kühnelt, Brinck, Lemche, Uchida.

Votes against the use of the plenary powers (i.e. for *Notophthalmus*)—nine (9) : Holthuis, Vokes, Jaczewski, Hemming, Key, Obruchev, Evans, Bradley, Mertens.

Voting Paper not returned—one (1) : Uchida.

Commissioner do Amaral returned a late vote for the use of the plenary powers and Commissioner Poll a late vote against the use of the plenary powers.

On 3 July 1961 the result of the vote taken on Voting Paper (61)2 was reported to the Commission with the following explanation :

“Alternative A, whilst having gained the majority vote, has not obtained the two-thirds majority necessary for a plenary powers decision of the Commission. In accordance therefore with Section J(c) of the Commission’s By-Laws, the vote taken on V.P.(61)2 is treated as a preliminary vote only and the proposals are now re-submitted, on V.P.(61)24, for a final decision. If less than two out of every three members of the Commission voting on V.P.(61)24 vote in favour of the use of the plenary powers to suppress *Notophthalmus* (Alternative A), then Alternative B shall be treated as the decision adopted by the Commission, in accordance with the By-Laws.

“The following comments were submitted by Commissioners with their votes on Voting Paper (61)2 :

“*Francis Hemming* (28.iii.61)—I consider that, when, as here, there is a substantial usage both for the correct name for a given taxon and for an incorrect name for that taxon, preference should be given to the valid name by the Commission and that the plenary powers should accordingly not be

* Commissioner Mayr requested that his vote be counted with the majority, and that only if there were a tie vote would he favour Alternative B (no use of the plenary powers).